IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

CRL.A.No. 1066 of 2002()

CC.28/2002 of JUDL.MAGISTRATE OF FIRST CLASS-III(MOBILE), KANNUR
.....

APPELLANT: COMPLAINANT

T.K.PREMAN, S/O. T.K.KRISHNAN,
WEAVERS' STREET, PAYYANNUR P.O.,
TALIPARAMBA TALUK, KANNUR.

BY ADV. SRI.PHILIP M.VARUGHESE
SRI.D.K.KUNJIKANNAN

RESPONDENTS: ACCUSED & ANOTHER
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1. **T.K.RAGHAVAN, S/O. KUNHAMBU,**
   THAZHAKURUNTHIL KIZHAKKE KUNNIYIL VEEDU,
   VELLUR AMSOM, KARAMEL DESOM, ANNUR P.O.,
   VIA.PAYYANNUR.

2. **THE STATE OF KERALA, REPRESENTED BY THE**
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.1066 of 2002

Dated this the 10th day of August, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 10.9.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl